

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13425, of Zion Baptist Enterprises, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.49 for the construction of a proposed eleemosynary institution in an R-1-B District at the premises 4817 Blagden Avenue, N.W., (Square 2654, Lot 809).

HEARING DATE: February 25, 1981
DECISION DATE: April 1, 1981

FINDINGS OF FACT:

1. The subject site is located on the south side of Blagden Avenue, between 16th and 17th Streets, N.W. It is in an R-1-B District at premises known as 4817 Blagden Avenue, N.W.

2. The site is 31,143 square feet in area, and is pentagonal in shape. It is improved with a detached two-story frame residence, constructed in the 1930's. The structure has been occupied and used as a church. The structure will be razed to allow the construction of the proposed new facility.

3. The subject site has approximately 200 feet of frontage along Blagden Avenue, which abuts the site to the north and west. Single-family detached dwellings abut the site on the northeast and southwest. A fifteen foot wide public alley abuts the site to the east and south. Other uses in the square consist of single family detached dwellings and two churches along 16th Street.

4. The site is located in the Crestwood neighborhood, which is comprised predominantly of single-family detached dwellings and several churches along 16th Street. The site is located in a large area of R-1-B zoning containing mainly single-family detached dwellings. Southwest of the site lies an extensive area of R-1-A zoning comprised of one-family detached dwellings. South of the site in question lies a small area of R-3 zoning and east of 16th Street lies an area of R-4 zoning. Both areas are developed primarily with row dwellings.

5. The applicant proposes to construct a three story, sixty-two room residence facility for ambulatory persons aged sixty-five or older. The sixty-two rooms will consist of fifty single and twelve double occupancy rooms. Dining facilities are to be included, in addition to an arts and crafts room, a multi-purpose room, a den, interior and exterior sitting areas on each floor, a laundry room, and an office-clinic. A staff of nine is to include a nurse, cooks, custodians, security guards, and administrative personnel. The facility will be primarily for Zion Baptist Church members. However, other qualified persons would be admitted.

6. The retirement residence will contain some 30,673.75 square feet of floor area on three floors.

7. The R-1-B District permits a maximum height of forty feet and three stories. The building as proposed is thirty-nine feet and three stories.

8. The R-1-B District requires a minimum lot area of 5,000 square feet, while a lot of 31,143 square feet is provided.

9. A minimum lot width of fifty feet is required in the R-1-B District, while a 200 foot lot width is provided.

10. The R-1-B District allows a maximum lot occupancy of forty percent, or 12,357.20 square feet for the subject lot. The proposed building would occupy 11,251.5 square feet or 36.12 percent of the subject lot.

11. A rear yard of twenty-five feet is required in the R-1-B District. A rear yard of twenty-eight to thirty feet in depth is to be provided.

12. Side yards of eight feet are required in the R-1-B District while side yards of thirty feet are to be provided.

13. The R-1-B District requires a minimum of eight off-street parking spaces for the proposed use, whereas fourteen spaces are to be provided.

14. Zion Baptist Church, Inc., a non-profit corporation in the District of Columbia located at 4850 Blagden Avenue, N.W. is the owner of the site in question. Zion Baptist Enterprises, Inc. of the same address, a non-profit corporation in the District of Columbia and corporate affiliate of Zion Baptist Church, Inc., will construct and privately operate the retirement residence. No one admitted to the retirement residence will pay more than a reasonable amount for residency. However, some will pay reduced amounts based on financial ability.

15. Admission policies will allow only self-reliant, ambulatory persons to be admitted. Admission policies will also discourage automobile ownership by the residents.

16. The retirement residence will provide nutritious meals, structured programs of recreation and cultural activities, and social services assistance. Such activities and services will include movies, field trips, and information on Social Security, Medicare and other services.

17. There will be no article of commerce for sale on the subject premises.

18. At the time of the public hearing and decision on the application, the Zoning Commission of the District of Columbia was in the process of considering Text Amendments to the Zoning Regulations in Case No. 78-12 which would, among other things, delete "philanthropic or eleemosynary institution" and would substitute for that and other uses a consolidated definition for "community-based residential facility". The amendments would allow community based residential facilities housing up to eight persons as a matter-of-right in R-1 Districts and those housing nine or more persons as a special exception in R-1 Districts provided certain standards are met.

19. The District of Columbia Office of Planning and Development by memorandum dated February 20, 1981, recommended that the application be approved with conditions. The Office of Planning and Development in its report stated the need to balance the benefits and needs for social services throughout the city with potential impacts on adjoining properties and residential neighborhoods in general. The OPD reported that there is a constantly growing need for social services and residences for senior citizens, and that the needs are recognized in the D.C. Comprehensive Goals and Policies Act, adopted by the City Council in 1978. The OPD believed the subject proposal will help to meet important city needs, in a residential area suitable for senior citizens. The OPD further concluded that as a result of the proposed development, it did not envision any destabilization of the neighborhood, but rather a reinforcement of the single family character of the area. Also, it concluded that implications from traffic and parking appeared to present few problems in the neighborhood. As to the physical impact and design of the proposed facility, the OPD recommended changes, related to increased side yards, additional landscaping to improve visual screening, and a redesign of the building's appearance to minimize the creation of an "institutional" image by changes in roof treatment, stair tower and elevator shafts, building finish material, and massing.

20. Several letters of support were filed, in addition to a petition in support with over 600 signatures of persons from across the city.

21. Advisory Neighborhood Commission - 4C reported through written testimony its opposition to the proposed facility on the following grounds:

- a. Approval would conflict with the ANC's policy of maintaining and upgrading the character and quality of living in all of its residentially zoned neighborhoods.
- b. The granting of a special exception for this application may serve as a precedent for other such requests in the future.
- c. The development of the site for single family residences, rather than the proposed use and building, would expand the real estate property tax base for the city.
- d. The proposed application as an eleemosynary institution is in conflict with recommendations concerning community based residential facilities contained in the Office of Planning and Development's report to the Zoning Commission, Case No. 78-12, dated April 30, 1980.

22. The Board is required by statute to give great weight to the issues and concerns of the ANC. In addressing these issues, the Board states the following:

- (a) The Board concurs with the ANC's policy as stated in "a" and notes that it too seeks to protect stable neighborhoods.
- (b) The Board has consistently stated that each application must stand on its own merits under the present regulations and on the facts presented.
- (c) The issue as to whether the site would bring more tax revenue for the city if developed with housing is not a proper issue before the Board. The Zoning Regulation which provides for the requested special exception does not reference tax revenues as an issue for the Board's consideration.
- (d) The Board will discuss the applicability of the proposed new regulations in its conclusions of law.

23. Several letters from residents in opposition were received.

24. A petition was filed with over 600 signatures of residents opposing the application. Several neighboring residents of the site and community organization appeared in opposition on the following grounds:

- a. The proposed use is inconsistent with and would be an intrusion into the single family character of the neighborhood.
- b. The proposed facility is inconsistent and incompatible with the height, scale and architecture of the single family dwellings in the neighborhood.
- c. Policy as stated by the Zoning Regulations call for a smaller facility similar in size to those homes or residential uses now permitted as a matter-of-right or existing in the neighborhood.
- d. The present Zion Baptist Church and church sponsored activities cause traffic and parking problems in the community. An additional facility of the type proposed would compound the already existing problems and create further congestion and noise on public streets and alleys.
- e. The proposed elderly facility and its associated impacts on the community would decrease property values.
- f. Approval of the proposed facility will establish a precedent for other similar facilities to be located in the community.
- g. The proposed facility would over-populate the neighborhood by generating on the site in question a population greater than what otherwise would exist on the block.
- h. The present site with the existing residential structure and environs is compatible with the existing neighborhood and should be retained.

25. The Board finds that the proposed use and building are out of character with the subject neighborhood. The building is far larger than any existing single family dwelling in the area, extending for a length of about 140 feet. Even with the retention of the existing mature trees in front of the property, the building will be clearly visible from Blagden Avenue and surrounding properties. The design of the building in no way resembles a single family dwelling. The roof structure extending above the level of the roof is uncharacteristic of any existing building in the area.

26. The Board finds that there is no fixed limitation in the Zoning Regulations as to the size of a philanthropic institution in an R-1-B District, except as to the lot occupancy and height limitations applicable to all buildings and structures. The proposed building meets the lot occupancy and height limitations of the R-1-B District.

27. The Board finds that the testimony of area residents as to traffic capacity is unpersuasive. The existing congestion problems appear to result primarily from attendance at services and functions sponsored by existing churches. These are intermittent during an average week, and would not appear to create undue capacity restraints on existing streets.

28. The Board finds that the proposed facility is likely to generate a significant amount of traffic on a constant basis in a zone district that is designated by the Regulations as "designed to protect quiet residential areas now developed with one family detached dwellings." The Board finds that the amount of traffic likely to result from staff, visitors, residents and service vehicles is far greater than what would result if the site were developed with conforming one family dwellings, and would adversely effect the existing quiet character of the area.

29. The Board finds no probative evidence in the record to support the argument that the proposed facility would decrease property values in the area.

30. The Board finds that the density of the proposed facility would be out of scale with the existing neighborhood, with a total of seventy-five potential residents and nine full-time staff. Six detached single family dwellings, which could be built as a matter-of-right, would likely house less than one-third that number.

CONCLUSIONS OF LAW AND OPINION:

Both the applicant and the opposition raised issues regarding the proposed amendments to the Zoning Regulations being considered by the Zoning Commission in Case No. 78-12, as set forth in Finding of Fact No. 18. Sub-section 8103.6 of the Zoning Regulations provides that "all applications for building permits authorized by orders of the Board of Zoning Adjustment may be processed in accordance with the Zoning Regulations in effect on the date such orders are promulgated." By memorandum dated October 16, 1978, the Corporation Counsel advised the Board that in cases where the regulations have changed, the regulations in effect on the date the Board meets to decide and vote upon an application should govern. In the subject case, the Board therefore will decide the case based on the regulations set forth in Paragraph 3101.49, not on any subsequent amended regulations which may have come into effect since April 1, 1981. Any testimony, evidence or argument related to the latter is irrelevant.

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a special exception as an eleemosynary institution under Paragraph 3101.49 and Sub-section 8207.2 of the Zoning Regulations. As such, the applicant must demonstrate that it has complied with the requirements of Paragraph 3101.49 and Sub-section 8207.2. The Board concludes the applicant has not so demonstrated.


The Board concludes that the proposed use is not of a correctional nature and that no articles of commerce would be sold on the premises. However, the Board also concludes that the proposed use would have an adverse impact on adjoining properties and the neighborhood in general. The R-1-B District is designed to protect and stabilize existing residential areas presently developed with one-family detached dwellings, and to promote a suitable environment for family life. The Board further concludes that the proposed use and building would be out of character with the existing neighborhood and would adversely affect that neighborhood by generating an on-site population of over seventy persons which would exceed the population of the entire block, and by generating traffic that on a consistent basis throughout a day would create noise and congestion in alleys that would adversely impact adjoining properties. The Board further concludes that the proposed building design is incompatible in mass and scale with the existing single-family neighborhood.

The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled. The Board further concludes that the special exception cannot be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Maps and will tend to affect adversely the use of neighboring property in accordance with said regulations and maps. It is therefore ORDERED that the application is DENIED.

VOTE: 5-0 (William F. McIntosh, Charles R. Norris and Connie Fortune to DENY; Douglas J. Patton and Theodore Mariani to DENY by PROXY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

BZA APPLICATION NO. 13425

PAGE 8

FINAL DATE OF ORDER: 13 SEP 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."